



**DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection**

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 21-06]

RIN 1515-AE62

Imposition of Import Restrictions on Categories of Archaeological Material of Costa Rica

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security;
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect the imposition of import restrictions on certain archaeological material from the Republic of Costa Rica (Costa Rica). These restrictions are being imposed pursuant to an agreement between the United States and Costa Rica that has been entered into under the authority of the Convention on Cultural Property Implementation Act. The final rule amends the CBP regulations by adding Costa Rica to the list of countries which have a bilateral agreement with the United States that imposes cultural property import restrictions. The final rule also contains the Designated List that describes the types of archaeological material to which the import restrictions apply.

DATES: Effective on [INSERT DATE OF DISPLAY FOR PUBLIC INSPECTION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325-0300, ot-otrrculturalproperty@cbp.dhs.gov. For operational aspects, Pinky

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SUPPLEMENTARY INFORMATION:

Background

The Convention on Cultural Property Implementation Act, Public Law 97-446, 19 U.S.C. 2601 *et seq.* (hereinafter, “the Cultural Property Implementation Act”), implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereinafter, “the Convention” (823 U.N.T.S. 231 (1972))). Pursuant to the Cultural Property Implementation Act, the United States entered into a bilateral agreement with Costa Rica to impose import restrictions on certain archaeological material from Costa Rica. This rule announces that the United States is now imposing import restrictions on certain archaeological material from Costa Rica.

Determinations

Under 19 U.S.C. 2602(a)(1), the United States must make certain determinations before entering into an agreement to impose import restrictions under 19 U.S.C. 2602(a)(2). On September 3, 2020, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, after consultation with and recommendation by the Cultural Property Advisory Committee, made the determinations required under the statute with respect to certain archaeological material originating in Costa Rica that is described in the Designated List set forth below in this document.

These determinations include the following: (1) that the cultural patrimony of Costa Rica is in jeopardy from the pillage of archaeological material representing Costa Rica’s cultural heritage dating from approximately 12,000 B.C. to A.D. 1550 (19 U.S.C. 2601(a)(1)(A)); (2) that the Costa Rican government has taken measures consistent with the Convention to protect its cultural patrimony (19 U.S.C. 2602(a)(1)(B)); (3) that import restrictions imposed by the United

States would be of substantial benefit in deterring a serious situation of pillage and remedies less drastic are not available (19 U.S.C. 2602(a)(1)(C)); and (4) that the application of import restrictions as set forth in this final rule is consistent with the general interests of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes (19 U.S.C. 2602(a)(1)(D)). The Assistant Secretary also found that the material described in the determinations meets the statutory definition of “archaeological or ethnological material of the State Party” (19 U.S.C. 2601(2)).

The Agreement

On January 15, 2021, the United States and Costa Rica signed a bilateral agreement, “Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Costa Rica Concerning the Imposition of Import Restrictions on Categories of Archaeological Material of Costa Rica” (“the Agreement”), pursuant to the provisions of 19 U.S.C. 2602(a)(2). The Agreement entered into force upon signature, and enables the promulgation of import restrictions on categories of archaeological material representing Costa Rica’s cultural heritage ranging in date from approximately 12,000 B.C. to A.D. 1550. A list of the categories of archaeological material subject to the import restrictions is set forth later in this document.

Restrictions and Amendment to the Regulations

In accordance with the Agreement, importation of material designated below is subject to the restrictions of 19 U.S.C. 2606 and § 12.104g(a) of title 19 of the Code of Federal Regulations (19 CFR 12.104g(a)) and will be restricted from entry into the United States unless the conditions set forth in 19 U.S.C. 2606 and § 12.104c of the CBP Regulations (19 CFR 12.104c) are met. CBP is amending § 12.104g(a) of the CBP Regulations (19 CFR 12.104g(a)) to indicate that these import restrictions have been imposed.

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the Agreement enters into force with respect to the United States.

This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the Agreement still pertain and no cause for suspension of the Agreement exists. The import restrictions will expire on January 15, 2026, unless extended.

Designated List of Archaeological Material of Costa Rica

The Agreement between the United States and Costa Rica includes, but is not limited to, the categories of objects described in the Designated List set forth below. Importation of material on this list is restricted unless the material is accompanied by documentation certifying that the material left Costa Rica legally and not in violation of the export laws of Costa Rica.

The Designated List includes archaeological materials in jade, gold and other metal, ceramics, stone, bone, resin, and shell ranging in date from approximately 12,000 B.C. to A.D. 1550.

Categories of Archaeological Material

- I. Jade
- II. Gold and Other Metal
- III. Ceramic
- IV. Stone
- V. Bone, Resin, and Shell

Archaeological Material

Approximate chronology of well-known archaeological sites, traditions, and cultures:

Archaeological material covered by the Agreement is associated with indigenous groups living in Costa Rica. The three main archaeological zones of Costa Rica are: Guanacaste (also referred to as Greater Nicoya), Central Highlands-Atlantic (or Caribbean) Watershed, and the Southern Zone (also referred to as Greater Chiriquí or Diquís). The following standardized periodization for lower Central America¹ is commonly used in the archaeology of Costa Rica:

- a) Period I (? – 8000 B.C.)
- b) Period II (8000 – 4000 B.C.)
- c) Period III (4000 – 1000 B.C.)
- d) Period IV (1000 B.C. – A.D. 500)
- e) Period V (A.D. 500 – 1000)
- f) Period VI (A.D. 1000 – 1550)
- g) European contact and Colonial period (A.D. 1500 – 1821)²

¹ Lange, Frederick W., and Doris Stone. 1984. *The Archaeology of Lower Central America*. Albuquerque: University of New Mexico Press.

² Import restrictions concerning European contact period archaeological material apply only to those objects dating to A.D. 1550 and earlier.

I. Jade

Archaeological jade objects may be made from several types of stone such as jadeite, jadeitite, serpentine, omphacite, agate, chalcedony, jasper, slate, opal, and quartz. These stones are various shades of green, as well as white, beige, brown, and black. Most jade objects were used for personal adornment. Examples of archaeological jade objects covered in the bilateral agreement include, but are not limited to, the following objects:

- A. *Pendants*—Celtiform pendants (sometimes called Axe-gods) may have human, avian, or composite human and avian figures carved on the upper portion and perforations for suspension. Some feature bats, and rare examples have Olmecoid faces and features. Celtiform pendants can be made from whole-, half-, and even sixth-celt blanks. Figure pendants may be carved into the shape of “beak-birds,” “curly-tailed animals,” humans, frogs, monkeys, crocodiles, saurians, or bats. Some human pendants wear masks or headdresses. Staff-bearer pendants depict a human wearing a mask or headdress carrying a vertical staff topped with a zoomorphic effigy. Horizontal zoomorphic pendants may be double-ended, and horizontal bat pendants often emphasize wings that terminate in crocodile heads. Some pendants, imported to Costa Rica in antiquity, have incised Epi-Olmec or Maya carvings and hieroglyphic inscriptions.
- B. *Beads*—Most jade beads are tubular in shape and vary in size. Large tubular beads may be up to approximately 50 cm long and have low-relief geometric or zoomorphic carving. Disc-shaped beads are also common.

- C. *Ear ornaments*—Spool-shaped ear flares may have openwork decoration in the center.
- D. *Vessels*—Miniature jade jars, often measuring about 6 cm tall, may be round with little decoration or have two zoomorphic or anthropomorphic heads on opposite sides. They often have perforations for strings to keep lids in place.
- E. *Mace heads*—Jade mace heads, which may be carved into avian, bat, feline, or anthropomorphic effigies, have large holes drilled in the center for mounting on staffs.

II. *Gold and Other Metal*

Most archaeological metal objects from Costa Rica are personal ornaments made from gold or a gold-copper alloy known as tumbaga or guanín. Objects were produced by lost-wax casting or cold hammering and annealing. Examples of archaeological gold and other metal objects covered in the bilateral agreement include, but are not limited to, the following objects:

- A. *Zoomorphic pendants*—Zoomorphic pendants most commonly depict avians, crocodilians, saurians, and snakes. Bats, butterflies, spiders, frogs, felines, turtles, lobsters, crabs, fish, armadillos, and deer are also represented. Many pendants combine features of more than one creature. Dual figures depict a single body with two heads and two tails. Some zoomorphic pendants hold human bodies or limbs in the mouth.
- B. *Anthropomorphic pendants*—Elaborate human figures may be depicted wearing zoomorphic masks or display a mix of human and animal or supernatural traits. Some human figures play musical instruments such as flutes or drums, are surrounded by attendant figures, have square or round frames, or have dangling pendants.
- C. *Bells*—Bells may be undecorated or decorated with zoomorphic figures such as monkeys or spiders. Complete bells may have loose ceramic or stone clappers.
- D. *Hammered ornaments*—Hammered gold discs, chest plates, cuffs, diadems, ear spools, and beads may have embossed geometric, anthropomorphic, or zoomorphic motifs.
- E. *Tools*—Needles, fish hooks, tweezers, and punches may be made of metal.

III. Ceramic

Archaeological ceramics in Costa Rica are low-fired terracotta, typically coil- and slab-built, but sometimes produced using molds. Hollow mammiform, rattle, figural, and slab tripod vessel supports are common. Decorations can be monochrome, bichrome, trichrome, or polychrome made with slip, paint, negative (or resist) paint, burnishing, and polishing. The most common colors are brown, black, and red, but can include white, orange, and purple. Decorations, in addition to slips and paints, include impressions, incisions, engraving, appliqué, and modeling. Most designs are geometric, linear, and/or divided into zones. Common zoomorphic designs include felines, birds, crocodilians, saurians, marine animals, deer, monkeys, tapirs, and peccaries. Humans may be depicted wearing zoomorphic masks or as composite figures with combined anthropomorphic and zoomorphic features. Some female figures hold infants. Other figures may be dressed in ostentatious clothing and/or show decapitated heads.

Archaeological cultures in the three cultural zones of Costa Rica produced distinctly different styles, especially after about A.D. 500. For example, well-known ceramics from the Guanacaste zone have white- and salmon-colored slip with polychrome decoration, which may include distinctive blue-gray or orange paints. Well-known ceramics from the Central and Atlantic (or Caribbean) Watershed zone are monochrome or bichrome with incised and molded decorations. The best-known ceramics from the Southern Zone are polychrome vessels with white slips decorated with geometric painting in black and red and fine-walled beige or natural-colored “biscuit” ware with small molded decorations.

Examples of archaeological ceramic objects covered in the bilateral agreement include, but are not limited to, the following objects:

- A. *Vessels*—Ceramic vessels include plates, bowls, jars, effigy vessels, and incense burners. Plates have flat or slightly convex bases, sometimes with tripod supports. Bowls sometimes have tripod supports or annular supports. Bowls may have

decorated exteriors, interiors, and rims with modeled decoration. Some bowls have anthropomorphic or zoomorphic forms. Jars, often called ollas, are globular vessels with short necks that may have tripod or annular supports. Some jars are shoe-shaped or gourd-shaped, neckless vessels called tecomates. Jars may be decorated on the exterior with zoned paint, modeled decoration, or linear paint depicting geometric designs or have human faces on the neck or body. Effigy vessels are containers sculpted in human or animal forms, sometimes with bridge-and-spout forms. Incense burners, or incensarios, may have hemispherical bases and a ventilated lid decorated with a modeled crocodilian or saurian effigy. Skillet-like incense burners may have zoomorphic handles.

- B. *Pot stands, stools, and griddles*—Pot stands are flared, cylindrical objects that may have bases made from rings of human figures and/or modeled birds. Thick buff-colored pottery stools have bases with modeled zoomorphic or anthropomorphic figures. Griddles, known as budares, have flat surfaces for cooking.
- C. *Figurines*—Anthropomorphic figurines include both solid and hollow forms, the latter of which can include rattles. Common forms include figures with flattened headdresses sometimes seated on benches, female figurines holding infants, and hunchbacks.
- D. *Musical instruments*—Musical instruments include maracas, rattles, ring-rattles, ocarinas, whistles, flutes, and drums. Ocarinas can be in the shape of humans, birds, turtles, and other animals.
- E. *Stamps*—Stamps may be roller stamps or have one flat surface with a design for stamping or sealing. Surfaces typically have deep, geometric decorations that would transfer with pigment to cloth or skin.
- F. *Inhalers and pipes*—Inhalers and pipes may be single-tubed pipes or double-tubed nasal snuffers.

- G. *Beads*—Beads typically are small, round, perforated objects intended to be strung on cords.

IV. Stone

Early chipped-stone tools mark the appearance of the first people to inhabit the region and continued to be used throughout history. Highly skilled stoneworkers created elaborately carved stone sculpture from basalt and andesite, volcanic stones common in Costa Rica. The most common material is grey vesicular andesite, distinguished by its rough surface. Examples of archaeological stone objects covered in the bilateral agreement include, but are not limited to, the following objects:

- A. *Metates* (grinding tables)—Both simple and elaborately carved flying-panel metates and special-purpose lithic platforms are typically made from porous basalt. Forms may be rectangular, oval, or circular. Tripod metates with curved rimless plates may have elaborately carved low-relief decoration on the underside of the plate featuring abstract designs, deities, and animals; elaborately carved legs; and/or zoomorphic heads extending from the plate, especially felines, jaguars, monkeys, crocodiles, saurians, avians, and canines. Metates with flat plates and raised rims may have decorated rims and have three cylindrical supports connected by “flying panels” with open-carving depicting multiple human and/or animal figures, decapitated human heads, and an anthropomorphic central figure wearing a saurian or avian mask. Tetrapod metates may have a border of stylized human heads and supports that may be in the form of human figures or human heads. Feline-effigy metates typically have a head extending from one end of the plate, a tail from the opposite end, and four supports representing legs that may be connected by open-carving depicting monkeys or other animals. Circular pedestal tables may have a single base with vertical slots and small feline figures or heads pendant from the table surface. Plain, rimless metates typically have tripod supports.

B. *Manos* (handstones) and pestles—A mano or pestle can be a round, loaf-shaped, or cylindrical hand-held stone used with a metate or mortar to pulverize grains, tubers, spices, and medicinal plants. Manos and pestles may have low-relief, zoomorphic or geometric carving at one or both ends. Flared-head manos may have a finely abraded working surface. Stirrup-shaped manos may have carved anthropomorphic forms incorporated into the upper part. More delicate manos may have a thin, flat grinding surface with a zoomorphic figure serving as a handle.

- C. *Biconical effigy seats*—Hourglass-shaped seats may be decorated with modeling and relief carving depicting an abstract crocodilian or saurian head and geometric designs.
- D. *Bowls or receptacles*—Stone bowls may be supported by anthropomorphic or zoomorphic figures. Reclining figures with a shallow bowl in the belly, sometimes called chacmools, can combine feline, raptorial, and snake features.
- E. *Figural sculpture*—Free-standing sculpture depicts a variety of figures in various sizes. Anthropomorphic figures typically about 30 cm tall wear crocodilian masks, tubular bead pendants, and multi-tiered headdresses. Stylized anthropomorphic peg-base figures, typically about 25-35 cm tall, often have a bifurcated tongue, hair ending in snakes, and N-shaped feline incisors. Some carry trophy heads. Large, realistic anthropomorphic figures, typically ranging in size from 50 cm to 1 m, may be female figures holding the breasts with brief girdles and plastered-down coiffures; bound, naked male prisoners; or males displaying an axe and trophy head. Small female and male figurines, typically about 12 cm tall, may grasp cylindrical shaped objects in each hand. Seated human figures, known as sukias, typically measure about 25 cm tall and rest their elbows on their knees while holding a tube to their mouths. Independent human heads, known as trophy heads, may measure about 15 cm tall and have varied facial features and hair or hat motifs. Independent feline heads may be decorated in low relief. Rounded zoomorphic effigy figures of varied size usually depict felines, though other animals like armadillos are also known.

- F. *Figure-decorated mortuary slabs*—Thin, decorated slabs that probably stood vertically as grave markers may have a row of figures in low relief along each side and openwork figures at the top.
- G. *Petroglyphs*—Petroglyphs typically display carved motifs on one rock face or on multiple sides of a stone. Most motifs are abstract geometric motifs, often with spirals or rounded designs. Some petroglyphs include zoomorphic engravings such as crocodilians, saurians, human faces, and human figures.
- H. *Mace heads*—Stone mace heads may be spherical or carved in the shape of human heads, human skulls, owls, bats, avians, canines, felines, or saurians.
- I. *Stone spheres*—Stone spheres are typically made of gabbro or granodiorite but can also be made from limestone. Stone spheres range from less than 10 cm up to about 2.6 m in diameter.
- J. *Polished stone tools*—Polished stone tools may include celts, chisels, and hoes, typically ranging in size from 3 to 20 cm. Figure-decorated celts may be made from various jades (discussed above) and volcanic stone. Bark beaters are oval plaques scored with deep incisions on one face.
- K. *Chipped-stone tools*—Chipped-stone tools may include projectile points, waisted axes, and other tools for scraping, cutting, or perforating. Early, extremely rare Paleoindian and Archaic projectile points include Clovis and Fluted Fishtail points.

V. Bone, Resin, and Shell

Examples of archaeological bone, resin, and shell objects covered in the bilateral agreement include, but are not limited to, the following objects.

- A. Personal ornaments—Pendants, ear spools, and beads typically are made from shell or bone.
- B. Figurines—Figurines made from resin may have gold sheathing.
- C. Tools—Tools may include bone points and awls, burnishers, needles, spatulas, and fishhooks.

References

National Museum of Costa Rica, Archaeological Collections:

<https://www.museocostarica.go.cr/nuestro-trabajo/colecciones/arqueologia/>

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the Secretary of the Treasury's authority (or that of his/her delegate) to approve regulations related to customs revenue functions.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, Reporting and recordkeeping requirements.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

2. In § 12.104g, the table in paragraph (a) is amended by adding Costa Rica to the list in alphabetical order to read as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) * * *

State party			Cultural property			Decision No.
*	*	*	*	*	*	*
Costa Rica			Archaeological material representing Costa Rica's cultural heritage from approximately 12,000 B.C. to A.D. 1550.			CBP Dec. 21-06
*	*	*	*	*	*	*

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Troy A. Miller, the Senior Official Performing the Duties of the Commissioner, having reviewed and approved this document, is delegating the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the *Federal Register*.

Robert F. Altneu
Director, Regulations & Disclosure Law Division
Regulations & Rulings
Office of Trade
U.S. Customs and Border Protection.

Approved: March 26, 2021

Timothy E. Skud
Deputy Assistant Secretary of the Treasury.

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